

Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 JAKARTA 14057

EO 11652:GDS

TAGS: PINS PINT ID

SUBJ: HARIMAN SIREGAR TRIAL-DEFENSE SUMMATION

REF: JAKARTA 13486

BEGIN SUMMARY: SIREGAR DEFENSE TEAM NOVEMBER 18 DELIVERED LENGTHLY AND UNCOMPROMISING SUMMATION WHICH SUGGESTED THAT ENTIRE YOUNGER GENERATION, INTEGRITY OF COURT SYSTEM UNDER SUHARTO GOVERNMENT AND OTHER PHILOSOPHICAL VALUES ALL ON TRIAL IN SIREGAR CASE. DEFENSE PRESENTATION, LED BY CHIEF COUNSEL TASRIF, BERATED PROSECUTION OVER CONDUCT OF TRIAL, REJECTED CHARGES AGAINST SIREGAR AS TOTALLY UNPROVEN, AND DEFENDED STUDENT PROTEST MOVEMENT OF 1973-4 AS NATURAL, JUSTIFIED, AND NECESSARY FOR FUTURE OF NATION. THOUGH EMBASSY DOUBTS PROSPECT OF GUILTY VERDICT FOR SIREGAR IS ALTERABLE, BY RAISING CASE TO LEVEL OF TEST OF SUHARTO ADMINISTRATION PUBLIC PHILOSOPHY, DEFENSE HAS RAISED PRICE GOI WILL PAY FOR STIFF CONVICTION. MEANWHILE GOI HAS ANNOUNCED THAT SECOND TRIAL, OF UNIVERSITY INDONESIA DISCUSSION GROUP SECRETARY SJACHRIR, WILL FOLLOW SHORTLY. FOLLOWING BASED ON PRESS REPORTS. END SUMMARY

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1. IN 50TH SESSION NOVEMBER 18, SIREGAR DEFENSE TEAM

DELIVERED STRONG AND UNCOMPROMISING SUMMATION OF DEFENSE CASE AND DEMANDED THAT COURT FIND SIREGAR INNOCENT OF ALL CHARGES OR, MINIMALLY, REJECT DEMAND BY PROSECUTION FOR 12 YEAR SENTENCE (REFTEL). DEFENSE STATEMENT, 150 PAGES LONG, READ IN ROTATION OVER NEARLY EIGHT HOURS BY ALL FOUR MEMBERS OF DEFENSE TEAM. STATEMENT PICTURED SIREGAR AS BOTH INNOCENT "SCAPEGOAT" OF JANUARY AFFAIR AND AS SYMBOLIC REPRESENTATIVE OF ENTIRE INDONESIAN YOUNGER GENERATION. DEFENSE SUGGESTED THAT YOUNGER GENERATION, ACADEMIC FREEDOM, TRUST BETWEEN STUDENTS AND INTEGRITY OF COURT SYSTEM UNDER SUHARTO NEW ORDER ALL ON TRIAL, AND THAT "HISTORY WILL RECORD WHETHER IN 1974 JUSTICE IN INDONESIA SHOWED UNDERSTANDING FOR THE ASPIRATIONS OF THE YOUNGER GENERATION." CHIEF COUNSEL TASRIF CONCLUDED SUMMATION WITH EXPRESSION OF HIS "CERTAINTY" THAT JUDGES WOULD NOT ALLOW ANYONE TO INFLUENCE THEIR DECISION, AND QUOTED SHAKESPEARE (HENRY VIII) "HEAVEN IS ABOVE ALL YET; THERE SITS A JUDGE THAT NO KING CAN CORRUPT."

2. DEFENSE BERATED PROSECUTION OVER LEGAL BASIS OF TRIAL, CONDUCT OF CASE AND CONTENT OF PROSECUTION SUMMATION. DEFENSE REPEATED ITS VIEW THAT 1963 SUBVERSION DECREE NO LONGER LEGALLY VALID, ADDING THAT SECURITY DECREES FROM SUKARNO REGIME HAVE NO PHILOSOPHIC BASIS UNDER NEW ORDER. POSSIBLY DEATH SENTENCE UNDER 1963 DECREE ALSO CONSIDERED NOT "CNEWUNE WITH THE TIMES." TASRIF FLATLY ACCUSED PROSECUTION OF ILLEGAL PROCEDURES AMOUNTING TO "RAPE OF THE LAW" AIMED AT SILENCING "ANYONE WHO DARES OPPOSE THE ESTABLISHMENT," NOTING THAT TRIAL HAD REVEALED INSTANCES OF DETENTIONS WITHOUT LEGAL ORDER, HOLDING OF WITNESSES IN DETENTION "FOR MONTHS" WITHOUT ALLOWING VISITS FROM FAMILY, INTERROGATIONS WITHOUT DISCLOSURE OF INTENDED USE OF STATEMENTS, AND DENIAL TO DEFENDENT OF RIGHT TO PRODUCE WITNESSES IN HIS BEHALF. DEFENSE ALSO CHIDED PROSECUTION FOR MENTIONING IN SUMMATION ONLY STATEMENTS BY WITNESS HARMFUL TO SIREGAR AND NONE OF MANY STATEMENTS SUPPORTING HIM NOR HIS OWN DENIALS, AND NOTED THAT MANY WITNESSES UNCERTAIN CONCERNING SIREGAR'S STATEMENTS, SEVERAL WITNESSES REVISED OR WITHDREW PRELIMINARY EXAMINATION STATEMENTS, AND ONLY REALLY DAMAGING TESTIMONY CAME FROM STUDENTS WHO INVOLVED

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IN LONG-STANDING DISPUTE WITH DEFENDENT. DEFENSE ALSO TOOK PROSECUTION TO TASK FOR USE OF INNUENDO IN ITS SUMMATION REFERENCE TO "GROUP" BEHIND SIREGAR. TASRIF SUGGESTED PROSECUTION MAY HAVE MEANT UNIVERSITY INDONESIA STUDENT DISCUSSION GROUP, AND ASKED RHETORICALLY IF THE GOI HAD DESIGNATED THIS GROUP AS BANNED ORGANIZATION "LIKE THE PKI."

3. IN REVIEWING CASE FOR SIREGAR, DEFENSE STATED THAT

MAIN PROSECUTION CHARGE THAT SIREGAR ACTIONS THROUGH FALL OF 1973 DESIGNED TO SUPPORT PRINCIPLES OF OCTOBER 24 STUDENT PETITION NOT CORRECT, SINCE VARIOUS STUDENT ACTIVITIES HAD INDIVIDUAL ORIGINS AND PURPOSES. DEFENSE CALLED ALLEGATION THAT OCTOBER 24 PETITION INTENDED TO UNDERMINE GOVERNMENT "PURE IMAGINATION," AND CITED GOI MINDEF PANGGABEAN STATEMENT JANUARY 14 THAT STUDENT ACTIVITIES PRIOR TO JANUARY 11 WERE "PURE" AS NEGATING CHARGE THAT THOSE ACTIVITIES WERE SUBVERSIVE. REGARDING JANUARY 15 EVENTS, DEFENSE STRESSED THAT STUDENTS NOT RESPONSIBLE AND THAT SIREGAR HAD OPPOSED JANUARY 15 RALLY AND HAD DISASSOCIATED HIMSELF FROM SUBSEQUENT VIOLENCE. DEFENSE STATED THAT BLAMING STUDENTS FOR RIOT WAS LIKE BLAMING "MOUSE-DEER FOR FIGHT BETWEEN ELEPHANTS," AND WARNED AGAINST MAKING STUDENTS INTO SCAPEGOATS.

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4. DEFENSE ALSO MADE STRONGEST STATEMENT IN TRIAL TO DATE THAT STUDENT DEMANDS DURING LATE 1973 PROTEST ACTIVITIES WERE LEGITIMATE, CITING AS EVIDENCE GOI ACTIONS SUBSEQUENT TO JANUARY EVENTS ABOLOSHING PRESIDENTIAL PRIVATE ASSISTANT POSITIONS, BRINGING KOPKAMTIB UNDER CONTROL, PROHIBITING IMPORTS OF LUXURY AUTOMOBILES AND ESTABLISHING CREDIT PROGRAMS FOR INDIGENOUS BUSINESSMEN. DEFENSE QUOTED AUTHORITIES ON SUBJECTS SUCH AS CORRUPTION (EG ESTIMATE THAT CORRUPTION INVOLVES MORE THAN 30 PERCENT OF INDONESIAN GNP), SERIOUSNESS OF POPULATION PRESSURE AND WEIGHT OF

FOREIGN DEBT AS EVIDENCE THAT STUDENTS WERE JUSTIFIED IN THEIR EXPRESSION OF CONCERN.

5. PRINCIPAL PROSECUTION ARGUMENT, HOWEVER, WAS PHILOSOPHICAL POSING CHOICE BETWEEN REPRESSION OF NATURAL IMPATIENCE AND DISCONTENT OF YOUTH (CITING EXPERT EVIDENCE THAT SUCH APPROACH TRIGGERS ANTISOCIAL BEHAVIOR) AND GENUINE EFFORT TO UNDERSTAND AND EMBRACE YOUTH CONCERNS, TASRIF ACCUSED PROSECUTION OF ADOPTING FORMER APPROACH, TRYING TO "TAME" STUDENTS LIKE ANIMALS ON BASIS THAT "FATHER KNOWS BEST" AND CREATING EVEN WORSE "GENERATION GAP." DEFENSE DESCRIBED YOUTHFUL RESTLESSNESS AS NATURAL AND HEALTHY, AND DECLARED THAT COUNTRY SHOULD BE THANKFUL THAT STUDENTS, AS HEIRS OF NATION, DARED TO VOICE INNER FEELINGS OF THE PEOPLE EVEN IN ATMOSPHERE WHERE PRESS MUTED AND TIMID AND INTEL-CONFIDENTIAL

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LECTUALS GENERALLY SUPPORT THE ESTABLISHMENT. TASRIF OFFERED HISTORIC PRECEDENT OF 1928 CASE IN WHICH DUTCH COURT SHOWED "UNDERSTANDING" OF ASPIRATIONS OF YOUNGER GENERATION AND RELEASED FOUR INDONESIAN YOUTHS, INCLUDING FUTURE GOI VICE PRESIDENT HATTA, CASE WHICH HE SAID SIMILAR IN MANY RESPECTS TO PRESENT TRIAL.

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6. COMMENT: DEFENSE SUMMATION CONSTITUTES RINGING INDICTMENT OF WHOLE CONCEPT OF JANUARY 15 TRIALS AS PURSUED BY GOI TO DATE. COMING ON HEELS OF TASRIF APPOINTMENT TO REPRESENT SUHARTO FAMILY IN ANCESTRY SUIT (REFTEL), STATEMENT DUGZARS TO PLACE COURT AND GOI SQUARELY ON DEFENSE. TASRIF HAS LABELED GOI PROSECUTION OF SIREGAR AS MISTAKEN IN CONCEPTION, ILLEGAL IN PROCEDURES AND INHUMANE BY COMPARISON EVEN WITH FORMER DUTCH COLONIAL REGIME. HE HAS FURTHER IMPLIED THAT INDONESIAN JUDICIARY AND NEW ORDER CLAIMS OF JUSTICE UNDER LAW WILL BE BRANDED AS FRAUD IF SIREGAR MADE SCAPEGOAT FOR JANUARY 15 EVENTS. EMBASSY CONTINUES TO DOUBT THAT EVEN BRILLIANCE OF TASRIF PRESENTATION WILL HAVE ANY EFFECT ON THICK-SKINNED AND OBEDIENT JUDICIARY OR ON GOI LEADERSHIP WHICH HAS INVESTED TOO MUCH IN TRIAL TO DATE TO BACK DOWN NOW, BUT DEFENSE HAS NOW CLEARLY TRIED TO UP THE ANTE OF THE TRIAL AND RAISE ITS POLITICAL LEVEL FROM SOMEWHAT TAWDRY EXERCISE IN FAULT-FINDING (TASRIF DID NOT EVEN REFER TO SUGGESTIONS OF ALI MURTOPO/OPSUS INVOLVEMENT IN JANUARY 15 EVENTS) TO BASIC TEST OF PUBLIC PHILOSOPHY OF SUHARTO GOVERNMENT. END CONFIDENTIAL BEGIN UNCLASSIFIED

7. SIREGAR MADE NO FORMAL SUMMATION AT SESSION, STATING ONLY THAT HE ENTRUSTED SUMMATION OF HIS CASE COMPLETELY

TO DEFENSE COUNSEL AND THAT HE CONSIDERED HIS ACTIONS TO HAVE BEEN MOTIVATED BY LOVE OF COUNTRY AND NOT INTENDED TO UNDERMINE GOVERNMENT.

8. TRIAL WILL RESUME SATURDAY NOVEMBER 23 TO HEAR PROSECUTION RESPONSE TO DEFENSE SUMMARY.

9. MEANWHILE GOI ANNOUNCED LAST WEEK THAT NEXT
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JANUARY 15 CASE TO BE TRIED WIL BE THAT OF SJACHRIR, SECRETARY TO UI DISCUSSION GROUP AND ASSOCIATE OF DETAINED ECONOMICS PROFESSOR SARBINI (FORMER PSI EMBER AND SIREGAR'S FATHER-IN-LAW). ATTORNEY GENERAL'S OFFICE IN ANNOUNCING TRIAL INDICATED THAT SJACHRIR CASE WOULD BE MORE DIFFICULT THAN THAT OF SIREGAR, GIVEN GREATER "SMOOTHNESS" OF DEFENDENT AND MORE "INDIRECT" NATURE OF EVIDENCE SUPPORTING CHARGE.
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